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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Edward A. Hunter et al

Serial No.: 10/507,442

Filed: 03/15/2006



) Conf. No. 2987
) Art Unit: 1631
) Examiner: K. Skowronek
) Docket No. BECK1240-1
)

**For: SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND
MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL
LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS**

CERTIFICATION UNDER 37 CFR § 1.8

I hereby certify that the documents referred to as enclosed herein are being deposited with the United States Postal Service as first class mail on this date July 12, 2010, in an envelope addressed to:
Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450

July 12, 2010
Date

Tenencia A. Meador
Signature

MAIL STOP: PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

This application became abandoned as of 10/14/2009 for failure to respond to the Office Action dated 04/14/2009. An Amendment and Request for Reconsideration responsive to the Office Action accompanies this paper. The application was filed 03/15/2006 and so a Terminal Disclaimer is not required.

An assignment of this application has been made to Phoeniq, LLC, a California limited liability corporation. A copy of the assignment is attached.

Phoeniq, LLC hereby petitions for revival of this application.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

On my information and belief, Phoeniq, LLC is a small entity. Accordingly, the small entity fee for this petition is forwarded herewith.

07/19/2010 SDENB083 00000002 10507442

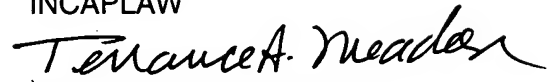
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810.00 OP

I am authorized to act on behalf of Phoeniq, LLC.

Respectfully submitted,

INCAPLAW

A handwritten signature in black ink, reading "Terrance A. Meador". The signature is written in a cursive style with a large, stylized 'T' and 'M'.

TERRANCE A. MEADOR

Reg. No. 30, 298

INCAPLAW

1050 Rosecrans Street, Suite K
San Diego, CA 92106

Telephone: (619) 222-2531 Fax: (619) 222-2327

Attachments:

Amendment and Request for Reconsideration
Bill of Sale, Assignment and Assumption Agreement
Check # 3819 for \$810.00

BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Bill of Sale") is entered into as of this 19th day of August, 2009, by and between Q3DM, LLC, a California limited liability company ("Assignor"), and Phoeniq, LLC, a California limited liability company ("Assignee").

1. In consideration for (i) the payment of Five Thousand Dollars (US\$5,000.00) on the date hereof, (ii) the agreement of Assignee to pay Assignor's attorneys fees in connection with the preparation and consummation of this Bill of Sale and related documents, up to an additional Five Thousand Dollars (US\$5,000.00), (iii) the execution by Jeffrey H. Price, sole member of Assignee of a Mutual General Release on behalf of himself, Assignee, and all other related parties, and (iv) for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby sells, conveys, transfers, assigns and delivers to Assignee all of Assignor's right, title and interest in and to the assets of Assignor described on the attached Exhibit A (hereinafter referred to herein as the "Assigned Assets"). The Assigned Assets are sold "as is" and "where is," with no representation or warranty of any kind.

2. Assignee hereby agrees to assume and perform any and all liabilities and obligations of Assignor of whatever kind or nature which Assignor may have assumed, directly or indirectly, upon the assignment in or about 1998 by Jeffrey H. Price to the Assignor of certain patent rights included in the Assigned Assets.

3. Assignor hereby agrees to execute and deliver at Assignee's sole cost and expense such other instruments and documents as Assignee may from time to time hereafter reasonably request to further effectuate the sale, transfer, conveyance and assignment to Assignee of the Assigned Assets.

IN WITNESS WHEREOF, each of the parties hereto have caused this Bill of Sale, Assignment and Assumption Agreement to be executed by its duly authorized representative as of the day and year set forth above.

ASSIGNOR:

Q3DM, LLC

By: 

Richard Crosby, Manager

ASSIGNEE:

PHOENIQ, LLC

By: 

Jeffrey H. Price, Sole Member and Manager

Exhibit A
Assigned Assets

1. The patents and patent applications described on the Q3DM Patent Summary Report attached hereto as Schedule 1 and described in SCHEDULE B PATENTS AND PATENT APPLICATIONS of the ASSET PURCHASE AGREEMENT BETWEEN Q3DM, Inc. AND BECKMAN COULTER, INC of December 8, 2003 attached hereto as Schedule 2. Assignee acknowledges that Schedule 1 was prepared by counsel to Gatan, Inc. and that Assignor has not confirmed the accuracy of the information contained therein. Assignee acknowledges that some applications in Schedule 2 may have been abandoned and that the status of many of the applications in Schedule 2 are out of date.
2. The Assets required to be assigned to the Assignor by Gatan, Inc. pursuant to Section 10.2(b) of that certain Sole and Exclusive Patent License Agreement dated February 1, 2008, between Gatan, Inc. and Assignor, together with all rights of Assignor to enforce such assignment obligations under such agreement.

Schedule 1
Q3DM Patent Summary Report

Q3DM PATENT SUMMARY REPORT

05-08-2009

INVENTOR	COUNTRY	SERIAL NO.	PATENT NO.	TITLE	STATUS	FILE	ISSUE	NEXT ACTION DUE	DUE DATE
G2044Q3/20087	US	08/820,442	5,790,692	METHOD AND MEANS OF LEAST SQUARES DESIGNED FILTERS FOR IMAGE SEGMENTATION IN SCANNING CYTOMETRY (CASE NO. 39A)	ISSUED	3/12/1997	8/4/1998	Third maintenance fee due	2/4/2010
G2044Q3/20088	US	08/858,293	5,856,665	ARC LAMP STABILIZATION AND INTENSITY CONTROL FOR IMAGING MICROSCOPY (CASE NO. 39B)	ISSUED	5/19/1997	1/5/1999	Third maintenance fee due	7/5/2010
G2044Q3/20089	US	08/785,614	5,790,710	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE NO. 40)	ISSUED	1/17/1997	8/4/1998	Third maintenance fee due	2/4/2010
G2044Q3/20090	US	08/913,647	5,932,872	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY HAVING A VOLUME IMAGE FORMATION (CASE NO. 40A)	ISSUED	9/10/1997	8/3/1999	Third maintenance fee due	2/3/2011
G2044Q3/20091	WO	PCT/US95/08424		AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE NO. 40B)	NAT PHASE	6/30/1995			
G2044Q3/20093	EP	97120924.2	834758	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40D)	NAT PHASE	6/30/1995	9/1/1999		
G2044Q3/20093DE	DE	97120924.2	834758	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40D)	ISSUED	6/30/1995	9/1/1999	Annuity due	6/30/2010
G2044Q3/20093GB	GB	97120924.2	834758	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40D)	ISSUED	6/30/1995	9/1/1999	Annuity due	6/30/2010
G2044Q3/20093SE	SE	97120924.2	834758	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40D)	ABANDONED	6/30/1995	9/1/1999		
G2044Q3/20095	EP	95925491.3	769159	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40C)	NAT PHASE	6/30/1995	3/10/1999		
G2044Q3/20095DE	DE	95925491.3	769159	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40C)	ISSUED	6/30/1995	3/10/1999	Annuity due	6/30/2009; extended until 12/30/2009
G2044Q3/20095GB	GB	95925491.3	769159	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40C)	ISSUED	6/30/1995	3/10/1999	Annuity due	6/30/2009; extended until 12/30/2009
G2044Q3/20095SE	SE	95925491.3	769159	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE 40C)	ABANDONED	6/30/1995	3/10/1999		

Q3DM PATENT SUMMARY REPORT

05-08-2009

INTERNAL NO.	CTRY	SERIAL NO.	PATENT NO.	TITLE	STATUS	FILE	ISSUE	NEXT ACTION DUE	DUE DATE
G2044Q3/20099	CA	2,192,986	2,192,986	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE NO. 40E)	ABANDONED	6 /30/1995	1 /22/2002		
G2044Q3/20100	JP	H08-503973		AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE NO. 40F)	ABANDONED	6 /30/1995			
G2044Q3/20101	MX	966,683	198478	AUTOFOCUS SYSTEM FOR SCANNING MICROSCOPY (CASE NO. 40G)	ISSUED	6 /30/1995	9 /4 /2000	Annuity due	6/30/2010
G2044Q3/20102	US	10/507,442		SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS (CASE NO. 41)	PENDING	3 /15/2006		Response to Office Action	7/14/2009
G2044Q3/20103	WO	PCT/US03/07968		SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS (CASE NO. 41A)	PUBLISHED	3 /13/2003			
G2044Q3/20104	EP	3721375.8		SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS (CASE NO. 41B)	PENDING	3 /13/2003		Annuity due	3/13/2010
G2044Q3/20105	CN	3810853.4	ZL03810853.4	SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS (CASE NO. 41C)	ISSUED	3 /13/2003	6 /6 /2007	Annuity due	3/13/2010
G2044Q3/20106	JP	2003-576927		SYSTEM AND METHOD FOR AUTOMATIC COLOR SEGMENTATION AND MINIMUM SIGNIFICANT RESPONSE FOR MEASUREMENT OF FRACTIONAL LOCALIZED INTENSITY OF CELLULAR COMPARTMENTS (CASE NO. 41D)	PENDING	3 /13/2003		Response to Office Action	5/12/2009; extended until 08/12/2009
G2044Q3/20108	US	08/796,196	5,995,143	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38)	ISSUED	2 /7 /1997	11/30/1999	Third maintenance fee due	5/30/2011

Q3DM PATENT SUMMARY REPORT

05-08-2009

PATENT NO.	CTRY	SERIAL NO.	PATENT NO.	TITLE	STATUS	FILE	ISSUE	NEXT ACTION DUE	DUE DATE
G2044Q3/20109	US	10/000,943	RE40,674	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38A) PATENT NO. 5,995,143 DATE 11/30/99	ISSUED	11/30/2001	3/24/2009	Thrd maintenance fee due	5/30/2011
G2044Q3/20110	WO	PCT/US98/00318		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38B)	NAT PHASE	1/14/1998			
G2044Q3/20111	EP	98902432.8	1021741	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38C)	NAT PHASE	1/14/1998	8/28/2002		
G2044Q3/20111CH	CH	98902432.8	1021741	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38C)	ISSUED	1/14/1998	8/28/2002	Annuity due	1/14/2010
G2044Q3/20111DE	DE	98902432.8	1021741	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38C)	ISSUED	1/14/1998	8/28/2002	Annuity due	1/14/2010
G2044Q3/20111GB	GB	98902432.8	1021741	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38C)	ISSUED	1/14/1998	8/28/2002	Annuity due	1/14/2010
G2044Q3/20111SE	SE	98902432.8	1021741	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38C)	ISSUED	1/14/1998	8/28/2002	Annuity due	1/14/2010
G2044Q3/20116	BR	PI9807671-0		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38D)	ABANDONED	1/14/1998			
G2044Q3/20117	CA	2,283,088	2,283,088	ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38E)	ISSUED	1/14/1998	12/3/2002	Annuity due	1/14/2010
G2044Q3/20118	CN	98802309.1		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38F)	ABANDONED	8/4/1999			
G2044Q3/20119	HK	104896.7		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38G)	ABANDONED	8/7/2000			
G2044Q3/20120	JP	H10-534425		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38H)	ABANDONED	1/14/1998			
G2044Q3/20121	MX	997,268		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38I)	ABANDONED	8/6/1999			
G2044Q3/20122	SG	9903669-1		ANALOG CIRCUIT FOR AN AUTOFOCUS MICROSCOPE SYSTEM (CASE NO. 38J)	ABANDONED	1/14/1998			
G2044Q3/20139	WO	PCT/US01/01928		METHOD FOR SYSTEM FOR EXTENSIBLE DATA PROCESSING (CASE 43E)	NAT PHASE	1/19/2001			

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05-08-2009

MAT. NO.	CTRY.	SERIAL NO.	PATENT NO.	TITLE	STATUS	FILE	ISSUE	NEXT ACTION DUE	DUE DATE
G2044Q3/20140	US	60/177,111		SOFTWARE FRAMEWORK FOR SCANNING CYTOMETRY (CASE NO. 43)	INACTIVE	1/20/2000			
G2044Q3/20141	US	09/703,455		MANAGING IMAGES OF MICROSCOPIC SPECIMENS (CASE NO. 43A)	ABANDONED	10/31/2000			
G2044Q3/20142	US	10/228,759	7,352,920	MANAGING IMAGES OF MICROSCOPIC SPECIMENS (CASE NO. 43B)	ISSUED	8/26/2002	4/1/2008	First maintenance fee due	10/1/2011
G2044Q3/20143	US	09/766,390	6,886,168	METHOD AND SYSTEM FOR EXTENSIBLE DATA PROCESSING (CASE NO. 43C)	ISSUED	1/19/2001	4/26/2005	Second maintenance fee due	10/26/2012
G2044Q3/20144	US	11/115,844		METHOD AND SYSTEM FOR EXTENSIBLE DATA PROCESSING (CASE NO. 43 D)	PUBLISHED	4/26/2005			
G2044Q3/20145	CA	2,397,912		METHOD FOR SYSTEM FOR EXTENSIBLE DATA PROCESSING (CASE 43F)	PENDING	1/19/2001		Response to Office Action	8/16/2009
G2044Q3/20147	EP	1942766.5		METHOD FOR SYSTEM FOR EXTENSIBLE DATA PROCESSING (CASE 43G)	ABANDONED	1/19/2001			

Schedule 2
SCHEDULE B PATENTS AND PATENT APPLICATIONS of the
ASSET PURCHASE AGREEMENT BETWEEN
Q3DM, Inc. AND BECKMAN COULTER, INC

SCHEDULE B
PATENTS AND PATENT APPLICATIONS

Title	Serial Number	Filing Date	Country	Patent Number	Issue Date	Assigned	Status
Operator Independent Image Cyometer	09/302,044	09/07/94	US	5,548,661	08/20/96	Q3DM	GRANTED
Method And Means Of Least Squares Designed Filters For Image Segmentation in Scanning Cytometry	08/820,442	003/12/97	US	5,790,692	08/04/98	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	PCT/US95/08424	06/30/95	PCT	NA	NA	Q3DM	COMPLETED
Autofocus System For Scanning Microscopy	2,192,986	06/30/95	Canada	2,192,986	01/22/02	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	95925491.3	06/30/95	Switzerland	0769159	03/10/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	95925491.3	06/30/95	Germany	0769159	03/10/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	95925491.3	06/30/95	EPO	0769159	03/10/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	95925491.3	06/30/95	United Kingdom	0769159	03/10/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	08-503973	06/30/95	Japan	NA	NA	Q3DM	PUBLISHED
Autofocus System For Scanning Microscopy	95925491.3	06/30/95	Sweden	0769159	03/10/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	08/785,614	01/17/97	US	5,790,710	08/04/98	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	97120924.2	06/30/95	Switzerland	0834758	06/30/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	97120924.2	06/30/95	Germany	0834758	06/30/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	97120924.2	06/30/95	EPO	0834758	06/30/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	97120924.2	06/30/95	United Kingdom	0834758	06/30/99	Q3DM	GRANTED
Autofocus System For Scanning Microscopy	97120924.2	06/30/95	Sweden	0834758	06/30/99	Q3DM	GRANTED
Autofocus For Scanning Microscopy	08/913,647	09/10/97	US	5,932,872	08/03/99	Q3DM	GRANTED
ARC Lamp Stabilization And Intensity Control For Imaging Microscopy	08/858,293	05/19/97	US	5,856,665	01/05/99	Q3DM	GRANTED

Title	Serial Number	Filing Date	Country	Patent Number	Issue Date	Assigned	Status
Analog Circuit For An Autofocus Microscope System	08/796,196	02/07/97	US	5,995,143	11/30/99	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	10/000,943	11/30/01	US	NA	NA	Q3DM	REISSUE— BROADEN THE CLAIMS & WILL MAKE THE CLAIM SIMILAR TO THE EUROPEAN PATENT
Analog Circuit For An Autofocus Microscope System	PCT/US98/0318	01/14/98	PCT	NA	NA	Q3DM	COMPLETED
Analog Circuit For An Autofocus Microscope System	2,283,088	01/14/98	Canada	2,283,088	12/03/02	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	98902432.8	01/14/98	Switzerland	NA	NA	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	98902432.8	01/14/98	Germany	NA	NA	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	98902432.8	01/14/98	EPO	NA	NA	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	98902432.8	01/14/98	United Kingdom	NA	NA	Q3DM	GRANTED
Analog Circuit For An Autofocus Microscope System	10-534425	01/14/98	Japan	NA	NA	Q3DM	PUBLISHED
Analog Circuit For An Autofocus Microscope System	98902432.8	01/14/98	Sweden	NA	NA	Q3DM	GRANTED
Method And System For Extensible Data Processing	09/766,390	01/19/01	US	NA	NA	Q3DM	PUBLISHED
Method And System For Extensible Data Processing	PCT/US01/01928	01/19/01	PCT	NA	NA	Q3DM	PUBLISHED
Method and System for Extensible Data Processing	01942766.5	06/20/02	EP	NA	NA	Q3DM	PENDING
Method and System for Extensible Data Processing		01/19/01	CA	NA	NA	Q3DM	PENDING
Managing Images of Microscopic Specimens Continuation of 09/703,455 (A Software Framework For Scanning Cytometry)	10/228,759	08/26/02	US	NA	NA	Q3DM	PENDING
Automatic Color Segmentation and Minimum Significant Response For Measurement Of Fractional Localized Intensity	60/363,889	03/13/02	US	NA	NA	Q3DM	CONVERTE D TO PCT UTILITY PATENT

Title	Serial Number	Filing Date	Country	Patent Number	Issue Date	Assigned	Status
Automatic Color Segmentation and Minimum Significant Response For Measurement Of Fractional Localized Intensity		03/13/02	PCT	NA	NA	Q3DM	PENDING